

diately to the guardian and used by him in the care and education of said members of the family, respectively; and if there be no guardian, the same shall be received and disbursed by the clerk of the superior court for their benefit."

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 11th day of March, A. D. 1889.

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#### CHAPTER 497.

#### An act to amend section 316 of The Code.

*The General Assembly of North Carolina do enact:*

Code, sec. 316,  
amended.

In arrest and trial  
defendant arrested  
entitled to jury  
trial on motion  
to vacate order  
of arrest.

SECTION 1. That section three hundred and sixteen of The Code be and it is hereby amended by adding to the end thereof the following:

"And the defendant may at any time before judgment deny upon oath the facts alleged in the affidavit of the plaintiff on which the order of arrest was granted, and demand that the issue so raised by the plaintiff's affidavit and the defendant's denial be submitted to the jury and tried in the same manner as other issues are tried by a jury; and if the issues are found by the jury in favor of the defendant, judgment shall be rendered discharging the defendant from arrest and vacating the order of arrest, and the defendant shall recover of the plaintiff all costs of the proceeding in such arrest as he shall have incurred in defending the said action."

SEC. 2. That this act shall be in force from and after its ratification.

Ratified the 11th day of March, A. D. 1889.

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#### CHAPTER 498.

#### An act to drain certain swamp lands of Cumberland county, North Carolina.

*The General Assembly of North Carolina do enact:*

Penitentiary  
directors required  
to furnish con-  
victs, &c.

SECTION 1. That the board of directors of the penitentiary are hereby required and directed to furnish to the county commissioners of Cumberland county not less than fifty able-bodied convicts to be worked by said commissioners in the county of Cumberland, under the provisions of chapter two hundred and sixty-seven, laws of one thousand eight hundred and eighty-seven, and on work thereunder to be selected by said board of commissioners: *Provided*, said board

Proviso.